

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

FILED
JAN 17 2013

[Signature]

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UNITED STATES OF AMERICA, * CR. 12-30088(01), (02) & (03)
*
*
Plaintiff, *
*
*
-vs- * REPORT AND RECOMMENDATION
* FOR DISPOSITION OF DEFENDANTS'
ALEXIS SALGADO, * MOTIONS TO SUPPRESS EVIDENCE
JAMES MENARD and * (IN PART) AND STATEMENTS
DAVID ANDREWS, *
*
*
Defendants. *

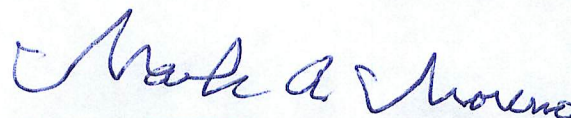
Defendant, Alexis Salgado, has filed a Motion to Suppress Evidence and Statements, Docket No. 71, Defendant, James Menard, and Defendant, David Andrews, have each filed separate motions to join the Motion to Suppress, Dockets Nos. 69, 70. Because Defendants' Motions are dispositive, this Court is only authorized to determine the same on a report and recommendation basis. *See* 28 U.S.C. §636(b)(1). Based on the findings, authorities and legal discussion made on the record at the January 17, 2013 hearing, the Court hereby

RECOMMENDS that Defendants' Motions (on all but the canine probable cause issue) be granted in part and denied in part. They should be granted insofar as they seek to suppress statements made in violation of *Miranda* during and following their encounter with law enforcement officers on the shoulder to the highway (and, as to Salgado, after

leaving the hospital and while en route to the Winner City Jail as well). In all other respects, the Motions should be denied.

Dated this 17th day of January, 2013, at Pierre, South Dakota.

BY THE COURT:



MARK A. MORENO
UNITED STATES MAGISTRATE JUDGE

NOTICE

Failure to file written objections to the within and foregoing Report and Recommendations for Disposition within fourteen (14) days from the date of service shall bar an aggrieved party from attacking such Report and Recommendations before the assigned United States District Judge. *See* 28 U.S.C. § 636(b)(1).

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JAN 21 2013
U.S. DISTRICT COURT
PIERRE, S.D.